



PATENT

S/N 10/634,275

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: WOOLFORD

Examiner: W. NEUDER

Serial No.: 10/634,275

Group Art Unit: 3672

Filed: AUGUST 5, 2003

Docket No.: 3616.111USC4

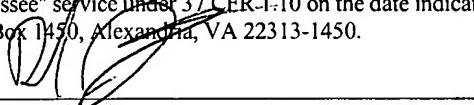
Title: COMPOSITE MASONRY BLOCK

CERTIFICATE UNDER 37 CFR 1.10:

"Express Mail" mailing label number: EV495869325US

Date of Deposit: March 22, 2005

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By:   
Name: David Ortiz

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT (37 C.F.R. § 1.97(b))

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

23552  
PATENT TRADEMARK OFFICE

Dear Sir:

With regard to the above-identified application, the following information is being brought to the attention of the Examiner in compliance with 37 CFR 1.56.

Litigation is currently pending between the Assignee, Anchor Wall Systems, Inc. (hereinafter "Anchor"), and Rockwood Retaining Walls, Inc. (hereinafter "Rockwood") involving Anchor's U.S. Patents 5,490,363; 5,704,183; 5,709,062; and 5,711,129. Anchor Wall Systems, Inc. v. Rockwood Retaining Walls, Inc. et al.; United States District Court, District of Minnesota, Civil Action No. 99-1356 (DSD/JMM). Each of those patents has common subject matter to the present application and has been cited to and considered by the Examiner in the present application.

In the litigation, Rockwood has alleged that certain of the claims of U.S. Patents 5,490,363, 5,704,183, and 5,711,129 are invalid based upon an alleged conception of a version of

Rockwood's "Classic" block at least as early as January 1992. In addition, Rockwood has alleged that the same claims of U.S. Patents 5,490,363, 5,704,183, and 5,711,129 are invalid based on an alleged conception and reduction to practice of a "Classic" style block, with the conception and reduction to practice occurring prior to the earliest effective filing date of U.S. Patent 5,490,363. Furthermore, Rockwood has alleged that U.S. Patents 5,704,183 and 5,711,129 are not entitled to the effective filing date of U.S. Patent 5,490,363, and that such patents are invalid based on an alleged conception, reduction to practice, and sale of a "Classic" style block prior to their respective effective filing dates. Rockwood also contends that its "Classic" style block was known or used by others before Anchor's invention date(s).

However, the documents and other evidence produced by Rockwood to support its allegations are subject to a court-mandated protective order that prevents Anchor from disclosing the documents and evidence relied upon by Rockwood to the U.S. Patent and Trademark Office. Anchor has requested that Rockwood permit Anchor to submit the documents and other evidence to the U.S. Patent and Trademark Office, but Rockwood has not given its permission to do so.

Anchor has denied, and continues to deny, Rockwood's invalidity allegations based on the "Classic" style block. It is Applicant's belief that the documents and other evidence relied upon by Rockwood concerning prior conception do not present a *prima facie* case of unpatentability of the presently pending claims.

Rockwood also contends that certain claims in Anchor's '363, '183, and '129 patents are invalid as anticipated by Japan Unexamined Utility Model Publication 59-167842 ("the Japanese Reference"). Anchor has denied, and continues to deny, this contention. Anchor points out that, among other things, the unit pictured in the Japanese Reference does not have an inset that extends from the top surface of the unit to the bottom surface of the unit.

Two translations of JP 59-167842 are enclosed and listed on the accompanying Form 1449. One translation was obtained by Anchor. The second translation, labeled M&H 02563-02583, was provided to Anchor by Rockwood. Applicant does not vouch for the accuracy of either translation.

A U.S. District Court decision (252 F.Supp.2d 838 (Dist. of MN 2002)) and a Federal Circuit decision in an appeal from the District Court decision (340 F.3d 1298 (Fed. Cir. 2003)) issued in the litigation with Rockwood that construe claim language used in Anchor's '363, '183, and '129 patents are enclosed and are listed on the accompanying Form 1449. See, e.g., pages 4-

9 of the 2002 District Court decision (252 F.Supp.2d 838, 843-49) and pages 7-9 of the Federal Circuit decision (340 F.3d 1298, 1307-10). In addition, a further Memorandum Opinion and Order issued by the U.S. District Court (2004 U.S. Dist. LEXIS 18458) in this litigation that construes claim language used in Anchor's '363, '183, and '129 patents is enclosed and is listed on the accompanying Form 1449. See, e.g., page 2 of the Memorandum (2004 U.S. Dist. LEXIS 18458 at \*4) and page 9 of the Memorandum (2004 U.S. Dist. LEXIS 18458 at \*32-35).

The litigation against Rockwood involving U.S. Patent 5,490,363, which was filed in 1999, is still pending. However, the litigation has been stayed.

The following requests for reexamination of Anchor's patents, from which this application claims priority, have been filed by counsel for Rockwood and are listed on the accompanying Form 1449:

Patent #	Application #	Status
5,490,363	90/007,234	Reexamination ordered
5,704,183	90/007,250	Reexamination ordered
5,711,129	90/007,239	Reexamination ordered
5,709,062	90/007,238	Reexamination ordered
5,795,105	90/007,249	Reexamination ordered
6,113,318	90/007,240	Reexamination ordered
6,641,334	95/000,056	Reexamination ordered

As of the filing of this paper, the status of the requests for reexaminations is indicated in the table above.

No representation is made that this information is "prior art" within the meaning of 35 U.S.C. §§ 102 and 103 and Applicant reserves the right, pursuant to 37 C.F.R. § 1.131 or otherwise, to establish that this information is not "prior art."

Further, the filing of this information disclosure statement is not to be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability.

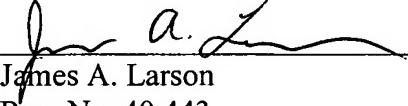
Consideration of this information is respectfully requested. It is requested that the Examiner return a copy of the attached Form 1449, marked as being considered and initialed by the Examiner, to the undersigned with the next official communication.

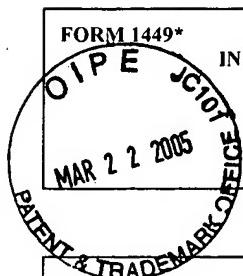
Please charge any additional fees or credit any overpayment to Deposit Account No. 13-2725.

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

Date: March 22, 2005

  
James A. Larson  
Reg. No. 40,443



FORM 1449*			Docket Number: 3616.111USC4	Application Number: 10/634,275
INFORMATION DISCLOSURE STATEMENT IN AN APPLICATION (Use several sheets if necessary)			Applicant: WOOLFORD	
			Filing Date: 08/05/2003	Group Art Unit: 3672

U.S. PATENT DOCUMENTS						
EXAMINER INITIAL	DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
FOREIGN PATENT DOCUMENTS						
	DOCUMENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION
						YES      NO
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)						
		An English language translation of Japan Unexamined Utility Model Publication 59-167842 obtained by the assignee Anchor Wall Systems, Inc., 9 pages				
		An English language translation of Japan Unexamined Utility Model Publication 59-167842 provided to the assignee Anchor Wall Systems, Inc. by Rockwood Retaining Walls, Inc., labeled M&H 02563-M&H 02583				
		Copy of U.S. District Court decision 252 F.Supp.2d 838 (Dist. of MN 2002) issued in the matter of <u>Anchor Wall Systems, Inc. v. Rockwood Retaining Walls, Inc. et al.</u> , United States District Court, District of Minnesota, Civil Action No. 99-1356.				
		Copy of Federal Circuit decision 340 F.3d 1298 (Fed. Cir. 2003) issued in the matter of <u>Anchor Wall Systems, Inc. v. Rockwood Retaining Walls, Inc. et al.</u> , United States District Court, District of Minnesota, Civil Action No. 99-1356.				
		Copy of a Memorandum Opinion and Order issued by the U.S. District Court (2004 U.S. Dist. LEXIS 18458) issued in the matter of <u>Anchor Wall Systems, Inc. v. Rockwood Retaining Walls, Inc. et al.</u> , United States District Court, District of Minnesota, Civil Action No. 99-1356.				
		Reexamination application serial no. 90/007,234				
		Reexamination application serial no. 90/007,250				
		Reexamination application serial no. 90/007,239				
		Reexamination application serial no. 90/007,238				
		Reexamination application serial no. 90/007,249				
		Reexamination application serial no. 90/007,240				
		Reexamination application serial no. 95/000,056				



EXAMINER	DATE CONSIDERED
EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form for next communication to the Applicant.	